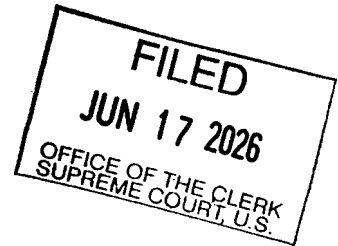


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No. 26-_____



IN THE
Supreme Court of the United States

JOHNNY RAY WALLS-BEY,
Petitioner,

v.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA,
Respondent,

and

STEPHANIE PERLOW, JASON FLEMING, SUSAN MCCLURE, JAMES E.
BRUCE, JR., AND ALEXIS JORDAN AUSTIN,
Real Parties in Interest.

=====

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit
(No. 26-1069)

=====

PETITION FOR A WRIT OF CERTIORARI

=====

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QUESTIONS PRESENTED

1. Whether the Ninth Circuit Court of Appeals committed clear error and abused its discretion in denying Petitioner's Petition for Writ of Mandamus under the factors set forth in *Bauman v. United States District Court*, 557 F.2d 650 (9th Cir. 1977), where the District Court transferred an Indian Child Welfare Act (ICWA) civil action under 28 U.S.C. § 1406(a) to a state/federal forum where custody proceedings were procured through extrinsic fraud and jurisdictional defect, thereby extinguishing Petitioner's federal statutory rights under 25 U.S.C. § 1914.
2. Whether a United States District Court may transfer an action asserting claims under 25 U.S.C. § 1914 and 42 U.S.C. § 1983, brought by an Indian parent residing with his Indian children in the forum state, pursuant to 28 U.S.C. § 1406(a) to the district where the defendant state officials reside, when the injury and denial of statutory rights occurred in the transferor district.
3. Whether the Ninth Circuit's denial of mandamus conflicts with this Court's controlling precedents in *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989), and *Haaland v. Brackeen*, 599 U.S. 255 (2023), requiring federal courts to give full effect to Congress's intent to protect Indian families and tribal sovereignty, and with *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), and *Boddie v. Connecticut*, 401 U.S. 371 (1971), prohibiting wealth-based barriers to judicial access in child custody and parental rights proceedings.

PARTIES TO THE PROCEEDING

Petitioner is Johnny Ray Walls-Bey, proceeding pro se. Petitioner is an enrolled member of the Mississippi Band of Choctaw Indians, a federally recognized Indian tribe. Petitioner's three minor children are "Indian children" within the meaning of 25 U.S.C. § 1903(4) as the biological children of an enrolled tribal member and are eligible for enrollment in the Mississippi Band of Choctaw Indians.

Respondent is the United States District Court for the District of Arizona (Phoenix Division), whose January 28, 2026, transfer order under 28 U.S.C. § 1406(a) was the subject of the petition for writ of mandamus in the Court of Appeals.

Real Parties in Interest are:

1. Stephanie Perlow, Judge of the Christian Circuit Court, Kentucky (in her official capacity);
2. Susan McClure, Judge of the Christian Circuit Court, Kentucky (in her official capacity);
3. Jason Fleming, Judge of the Christian Circuit Court, Kentucky (in his official capacity);
4. James E. Bruce, Jr., private attorney; and
5. Alexis Jordan Austin, mother of the minor children.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner Johnny Ray Walls-Bey is an individual and is not a corporation. No publicly held company owns any interest in this proceeding.

DIRECTLY RELATED PROCEEDINGS

Pursuant to Supreme Court Rule 14.1(b)(iii), the following proceedings are directly related to the judgment sought to be reviewed:

1. Johnny Ray Walls-Bey v. United States District Court for the District of Arizona, No. 26-1069 (9th Cir.) — Order denying Petition for Writ of Mandamus entered March 19, 2026 (judgment sought to be reviewed).
2. Johnny Ray Walls-Bey v. Stephanie Perlow, et al., No. 2:25-cv-04315-MTL (D. Ariz.) — Order transferring venue entered January 28, 2026.
3. Johnny Ray Walls-Bey v. Stephanie Perlow, et al., No. 5:26-cv-00018-BJB (W.D. Ky.) — Transferred underlying action.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner Johnny Ray Walls-Bey is an individual and is not a corporation. No parent or publicly held corporation owns any stock or other interest in this case.

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OPINIONS BELOW

The order of the United States Court of Appeals for the Ninth Circuit denying Petitioner's Petition for Writ of Mandamus in Case No. 26-1069 was entered on March 19, 2026, is unreported, and is reproduced in the Appendix (App.) at 1a–3a. The order of the United States District Court for the District of Arizona transferring the action to the Western District of Kentucky under 28 U.S.C. § 1406(a) in Case. 2:25-cv-04315-MTL was entered on January 28, 2026, is unreported, and is reproduced at App. 4a–7a.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The United States Court of Appeals for the Ninth Circuit entered its order denying the Petition for Writ of Mandamus on March 19, 2026. This petition was timely postmarked on June 17, 2026 (received June 23, 2026), within the 90 days allowed by 28 U.S.C. § 2101(c) and Supreme Court Rule 13.1, and is resubmitted in conformity with Supreme Court Rule 14.5. The statutory basis for jurisdiction in the District Court

was 28 U.S.C. § 1331 (federal question), 25 U.S.C. § 1914 (Indian Child Welfare Act), and 42 U.S.C. § 1983 (deprivation of civil rights). The Court of Appeals' jurisdiction was invoked under 28 U.S.C. § 1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. V provides in relevant part:

"No person shall . . . be deprived of life, liberty, or property, without due process of law"

U.S. Const. amend. XIV, § 1 provides in relevant part:

"No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

25 U.S.C. § 1902 provides:

"The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by the providing of assistance to Indian tribes and communities in the operation of child and family service programs."

25 U.S.C. § 1903(4) provides:

"Indian child' means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe."

25 U.S.C. § 1914 provides:

"Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of this title."

28 U.S.C. § 1391(b)(2) provides:

"A civil action may be brought in . . . a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated"

28 U.S.C. § 1406(a) provides:

"The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought."

28 U.S.C. § 1651(a) provides:

"The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

STATEMENT OF THE CASE

A. Tribal Status and Children's Residence in Arizona

Petitioner Johnny Ray Walls-Bey is an enrolled citizen of the Mississippi Band of Choctaw Indians, a federally recognized Indian tribe. See 91 Fed. Reg. 4102, 4103 (Jan. 30, 2026). Petitioner's three minor children are "Indian children" under 25 U.S.C. § 1903(4) because they are the biological children of an enrolled member and are eligible for tribal citizenship.

In June 2024, the minor children established continuous physical residence with Petitioner in Phoenix, Arizona. Arizona became the children's "home state" under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

B. Fraudulent Procurement of Kentucky State Court Jurisdiction

In November 2024—five months after the children relocated to Arizona—Real Party in Interest Alexis Jordan Austin filed a custody action in the Christian Circuit Court of Kentucky (Case No. 24-CI-01016).

On January 8, 2025, Judge Jason Shea Fleming entered an order asserting "home state" jurisdiction in Kentucky. This jurisdictional assertion was procured through extrinsic fraud: Judge Fleming personally entered evidence into the record while attributing it to Real Party in Interest. On March 26, 2025, counsel for Real Party in Interest, James E. Bruce, Jr., formally filed a motion confirming that the exhibits were "not submitted by him." Despite this fraud and the total absence of ICWA compliance or notice to the Mississippi Band of Choctaw Indians under 25 U.S.C. § 1912, the Kentucky court continued to issue custody orders. See *United States v. Throckmorton*, 98 U.S. 61, 65–66 (1878).

C. Federal Court Proceedings and Denial of Mandamus

On November 17, 2025, Petitioner filed a federal civil action in the U.S. District Court for the District of Arizona (Case No. 2:25-cv-04315-MTL) asserting claims under 25 U.S.C. § 1914 and 42 U.S.C. § 1983 to invalidate the void state court custody orders and enjoin continuous violations of ICWA and constitutional due process.

On January 28, 2026, the District Court (Liburdi, J.) transferred the action to the Western District of Kentucky under 28 U.S.C. § 1406(a), holding that venue was improper in Arizona because the state court defendants resided in Kentucky. The District Court disregarded the fact that the Indian children and Petitioner resided in Arizona, that the harm occurred in Arizona, and that venue was proper under 28 U.S.C. § 1391(b)(2).

Petitioner filed a Petition for Writ of Mandamus in the Ninth Circuit (Case No. 26-1069) to vacate the transfer order. On March 19, 2026, the Ninth Circuit summarily denied the petition, stating that Petitioner had "not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus." (App. 1a–3a).

REASONS FOR GRANTING THE WRIT

I. THE NINTH CIRCUIT'S DENIAL OF MANDAMUS CONFLICTS WITH THIS COURT'S DECISIONS IN MISSISSIPPI BAND OF CHOCTAW INDIANS V. HOLYFIELD AND HAALAND V. BRACKEEN (RULE 10(c)).

This Court has repeatedly established that the Indian Child Welfare Act must be strictly enforced across all judicial forums to prevent the unwarranted separation of Indian children from their families and tribal culture. In *Mississippi Band of*

Choctaw Indians v. Holyfield, 490 U.S. 30, 49 (1989), this Court held that Congress intended ICWA to safeguard not only individual Indian families but the vital interests of the tribes themselves. In Haaland v. Brackeen, 599 U.S. 255 (2023), this Court reaffirmed Congress's broad Article I plenary authority to establish uniform federal standards for child custody proceedings involving Indian children.

The Ninth Circuit's refusal to issue mandamus to correct an improper § 1406(a) venue transfer conflicts directly with these principles. By transferring Petitioner's § 1914 enforcement action to the very judicial district where the underlying state court officials are situated and where ICWA's applicability has been repudiated, the federal courts have effectively destroyed the independent federal remedial mechanism that Congress specifically created in 25 U.S.C. § 1914.

II. THE DISTRICT COURT'S IMPROPER TRANSFER UNDER § 1406(a) RAISES AN IMPORTANT, RECURRING QUESTION OF FEDERAL LAW GOVERNING ICWA ACTIONS UNDER 25 U.S.C. § 1914 (RULE 10(a), (c)).

The District Court erred as a matter of law in ruling that venue was improper in Arizona under 28 U.S.C. § 1391(b). Under § 1391(b)(2), venue is proper in any judicial district "in which a substantial part of the events or omissions giving rise to the claim occurred." Petitioner and the Indian children reside in Arizona; the unlawful exercise of extra-territorial custody orders directly targets and injures them in Arizona. See *Myers v. Bennett Law Offices*, 238 F.3d 1068, 1075–76 (9th Cir. 2001).

Furthermore, the Ninth Circuit has recognized that 25 U.S.C. § 1914 provides federal question jurisdiction to invalidate state court orders that violate ICWA. *Doe v. Mann*, 415 F.3d 1038, 1047 (9th Cir. 2005). Transferring an ICWA invalidation claim to a forum infected by documented fraud (*Throckmorton*, 98 U.S. at 65) operates as a de facto abstention, depriving an Indian parent of an uncompromised federal forum. Under the five-factor mandamus standard in *Bauman v. United States District Court*, 557 F.2d 650 (9th Cir. 1977), and *In re Mersho*, 6 F.4th 891 (9th Cir. 2021), the District Court's transfer order constituted clear legal error resulting in irreparable harm that cannot be remedied on post-judgment appeal.

III. THE DENIAL OF MANDAMUS PERPETUATES UNCONSTITUTIONAL WEALTH-BASED BARRIERS TO JUDICIAL ACCESS IN VIOLATION OF M.L.B. AND BODDIE.

Under *M.L.B. v. S.L.J.*, 519 U.S. 102, 124 (1996), and *Boddie v. Connecticut*, 401 U.S. 371, 374 (1971), the Due Process and Equal Protection Clauses prohibit the imposition of wealth-based financial obstacles that block indigent parents from defending their fundamental liberty interests in the care and custody of their children. The procedural maneuvers in the lower courts, combined with recurring denials of *in forma pauperis* protections, have erected an unconstitutional financial barrier preventing an indigent Indian father from vindicating statutory and constitutional protections in federal court.

ARGUMENT

A. The Ninth Circuit Abused Its Discretion in Denying the Petition for Writ of Mandamus

The Ninth Circuit's denial of mandamus must be reviewed under the five-factor test articulated in *Bauman v. U.S. Dist. Court*, 557 F.2d 650, 654-55 (9th Cir. 1977), and reaffirmed in *In re Mersho*, 6 F.4th 891 (9th Cir. 2021). Under that test, the Court considers: (1) whether the petitioner has no other adequate means to attain the relief desired; (2) whether the petitioner will be damaged or prejudiced in a way not correctable on appeal; (3) whether the district court's order is clearly erroneous as a matter of law; (4) whether the district court's order is an oft-repeated error or manifests a persistent disregard of the federal rules; and (5) whether the district court's order raises new and important problems or issues of first impression. *Id.* While the third factor—clear error as a matter of law—is a necessary condition for granting mandamus, the absence of any factor is not necessarily dispositive. *Id.*

1. The Third Bauman Factor Is Satisfied: The District Court's Order Is Clearly Erroneous as a Matter of Law

The District Court's order transferring the case to the Western District of Kentucky is clearly erroneous as a matter of law for at least three (3) reasons:

First, the District Court misapplied 28 U.S.C. § 1406(a). The District Court held that venue was improper in Arizona because the state court custody proceedings were pending in Kentucky. But the District Court failed to consider that Petitioner resides in Arizona, the children reside in Arizona, and the harm (loss of custody) is felt in Arizona. Under the Ninth Circuit's own precedent in *Myers v. Bennett Law Offices*, 238 F.3d 1068 (9th Cir. 2001), venue is proper where the effect of the conduct is felt. The District Court's transfer contradicts *Myers*.

Second, the District Court failed to consider the fraud that underlies the state court custody proceedings. As demonstrated above, the state court's "home state" order was procured through fraud. Under the principle announced in *United States v. Throckmorton*, 98 U.S. 61, 65-66 (1878), a judgment procured by fraud is void and may be collaterally attacked. The District Court's transfer of the case to the very forum in which the fraudulent judgment was entered is clearly erroneous.

Third, the District Court's transfer has the same practical effect as *Younger* abstention — it allows the state court proceedings to proceed without federal court review — without the procedural protections that *Younger* requires. The District Court did not technically apply *Younger v. Harris*, 401 U.S. 37 (1971), when it transferred this case under 28 U.S.C. § 1406(a). However, the transfer order functions as *Younger* abstention in substance, if not in form.

Younger abstention is a narrow doctrine that applies only in limited circumstances. Under *Younger* and its progeny, federal courts must abstain from hearing cases that would interfere with pending state proceedings only when:

- (i) there is an ongoing state judicial proceeding;
- (ii) the proceeding implicates important state interests;
- (iii) the federal plaintiff has an adequate opportunity in the state proceedings to raise constitutional challenges; AND
- (iv) the state proceedings are conducted in good faith and without harassment.

Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432-37 (1982); see also *Younger*, 401 U.S. at 43-44. **Importantly, Younger abstention has never been extended to private custody proceedings between biological parents.** See *Laurie v. Lutheran Hosp. of Indiana, Inc.*, 736 F.2d 204, 208 (7th Cir. 1984) (declining to extend *Younger* to private custody proceedings); cf. *Moore v. Sims*, 442 U.S. 415, 423-25 (1979) (applying *Younger* to state-initiated child abuse proceedings but not addressing private custody proceedings).

The District Court's transfer order has the same practical effect as *Younger* abstention because it allows the state court proceedings to proceed without federal court review. However, the transfer order does not include the procedural protections that *Younger* requires:

(a) There is no finding that the Kentucky state court proceedings implicate important state interests. While the State has an important interest in the welfare of children, see *Santosky v. Kramer*, 455 U.S. 745, 753-55 (1982), the State does not have an important interest in determining which parent should have custody of a child in the absence of evidence of parental unfitness. See *Troxel v. Granville*, 530 U.S. 57, 65-67 (2000) (recognizing the fundamental right of parents to make decisions concerning the care, custody, and control of their children).

(b) There is no finding that Petitioner has an adequate opportunity in the state proceedings to raise his constitutional claims. The Kentucky Court of Appeals' May 6, 2026, order demonstrates that Petitioner does NOT have an adequate opportunity to raise his ICWA claim in the Kentucky state proceedings. If Petitioner

cannot raise his ICWA claim in the Kentucky state proceedings, and he cannot raise it in the federal courts (because the case has been transferred to Kentucky), then **Petitioner has no forum in which to raise his federal claim.** This is exactly the type of procedural defect that Younger abstention is designed to avoid.

(c) There is no finding that the state proceedings are conducted in good faith and without harassment. To the contrary, the state proceedings appear to be conducted in bad faith and for the purpose of harassment: (i) Judge Jason Shea Fleming has admitted to procuring evidence, see Affidavit of Judge Jason Shea Fleming, Appendix at 18a; (ii) James E. Bruce, Jr., the opposing party, has filed frivolous motions and has made false statements to the court, see Motion of James E. Bruce, Jr., Appendix at 19a; and (iii) the state court has transferred venue multiple times in an effort to defeat Petitioner's ICWA claim, see Order Transferring Venue, Appendix at 12a-13a.

The fraud exception to Younger abstention applies when state proceedings are conducted in bad faith and for the purpose of harassment. *Dombrowski v. Pfister*, 380 U.S. 479, 488-92 (1965); *Gibson v. Berryhill*, 411 U.S. 564, 569-71 (1973); see also *Younger*, 401 U.S. at 48-49 (recognizing the fraud exception). The District Court was required to consider the fraud exception before transferring the case. The District Court's failure to consider the fraud exception is legal error that warrants mandamus relief.

In sum, the District Court's transfer order, while not labeled as "Younger abstention," has the same practical effect as Younger abstention — it allows the

state court proceedings to proceed without federal court review — without the procedural protections that *Younger* requires. The District Court should have either: (1) applied *Younger* abstention explicitly and made the findings required by *Middlesex*; or (2) declined to transfer the case under § 1406(a) because the transfer would have the same effect as *Younger* abstention without the procedural protections of *Younger*. The District Court's failure to do either is legal error that warrants mandamus relief.

2. The First and Second Bauman Factors Are Satisfied: Petitioner Has No Other Adequate Means and Will Be Damaged in a Way Not Correctable on Appeal

Petitioner has no other adequate means to attain the relief desired. The transfer order is an interlocutory order that is not immediately appealable. *See* 28 U.S.C. § 1291. Petitioner will be damaged in a way not correctable on appeal because, without an injunction, Petitioner will be forced to appear in the Christian Circuit Court in Kentucky, where the fraudulently obtained orders will have preclusive effect. The loss of custody of Petitioner's children is the quintessential irreparable harm. *See Santosky v. Kramer*, 455 U.S. 745, 758-59 (1982).

3. The Fourth Bauman Factor Is Satisfied: The District Court's Error Is an Oft-Repeated Error

The District Court's error is an oft-repeated error. The pattern of five (5) Ninth Circuit dismissals for "alleged lack of jurisdiction" demonstrates that the District Court (and the Ninth Circuit) are using jurisdictional mechanisms to avoid the merits of Petitioner's federal claims. This pattern of dismissals constitutes a

"persistent disregard of the federal rules" within the meaning of the fourth Bauman factor.

4. The Fifth Bauman Factor Is Satisfied: The District Court's Order Raises New and Important Problems

The District Court's order raises new and important problems of first impression, including: (1) whether a district court may transfer an ICWA case to a forum in which the state court custody proceedings were procured through fraud; (2) whether a district court may transfer an ICWA case to a forum in which the state court defendants reside; and (3) whether a district court may transfer an ICWA case under § 1406(a) to evade federal jurisdiction under 25 U.S.C. § 1914.

B. The Questions Presented Are of Nationwide Importance

As demonstrated in Part IV.C above, the questions presented in this case are of profound national importance. They affect thousands of Indian children, families, and tribes across the Nation. The pattern of Ninth Circuit dismissals, the Sixth Circuit case, the Kentucky Court of Appeals' narrowing of ICWA, and the empirical data on ICWA case volume all demonstrate that the questions presented are recurring, important, and worthy of Supreme Court review.

C. The Harm to Petitioner Is Irreparable

If the Ninth Circuit's denial of mandamus is allowed to stand, Petitioner will suffer irreparable harm:

1. **Loss of Federal ICWA Jurisdiction:** The transfer of the case to the W.D. Ky. effectively extinguishes Petitioner's federal cause of action under 25 U.S.C. § 1914.
2. **Denial of Access to Federal Courts:** The transfer effectively denies Petitioner access to the Ninth Circuit (the federal appellate court with jurisdiction over Arizona).
3. **Forced Appearance in State Court:** Without an injunction, Petitioner will be forced to appear in the Christian Circuit Court in Kentucky.
4. **Loss of Custody of His Children:** The ongoing state court proceedings could result in an order returning the children to Kentucky.
5. **Stigma of Fraudulently Obtained Orders:** The state court orders, obtained through fraud, would have preclusive effect in any future proceeding.

D. The Harm to All Similarly Situated Litigants Is Substantial

The Ninth Circuit's denial of mandamus will have substantial harmful effects on all similarly situated litigants:

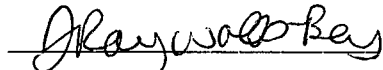
1. **Erosion of Federal ICWA Jurisdiction:** The transfer mechanism will become a routine tool for evading federal ICWA jurisdiction.
2. **Chilling Effect on ICWA Enforcement:** Indian parents will be deterred from filing federal ICWA actions.

3. **State Court Collusion:** State courts and federal courts will be able to collude to ensure that ICWA cases are heard in forums favorable to the state court's jurisdiction.
4. **Inconsistent Application of ICWA:** The lack of Supreme Court guidance will result in inconsistent application of ICWA.
5. **Violation of Treaty Obligations:** The federal government's treaty obligations to Indian tribes will be undermined.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted, the March 19, 2026, order of the Ninth Circuit Court of Appeals vacated, and the case remanded with instructions to grant the writ of mandamus directing the District Court to retain jurisdiction over Petitioner's claims.

Respectfully submitted,



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Dated: August 19, 2026